

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
BETWEEN:

CLAIM NO: CO/3340/2016



THE PROFESSIONAL STANDARDS AUTHORITY
FOR HEALTH AND SOCIAL CARE

Appellant

and

(1) THE NURSING AND MIDWIFERY COUNCIL

First Respondent

(2) MRS SYLVIA RAHAMAN

Second Respondent

CONSENT ORDER

UPON the parties having agreed to the terms of this Order and to the statement of matters set out in the attached Schedule 1;

AND UPON none of the parties being a child or a protected party, and the appeal not being an appeal from the Court of Protection;

AND UPON the First Respondent conceding that there were serious procedural or other irregularities in respect of the decisions made by the Conduct and Competence Committee ("CCC") on 5 and 6 May 2016 respectively, not to allow Ms 3 to give telephone evidence and/or to allow a further adjournment;

AND UPON the First and Second Respondents conceding that the Professional Standards Authority for Health and Social Care is unable to determine whether the resultant 'no case to answer decision' made by the CCC on 6 May 2016 is sufficient to protect the public within the meaning of Section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended);

Order approved.

Ms L. D. Clark

14/9/16

IT IS ORDERED BY CONSENT THAT:

1. The appeal is allowed.
2. The no case to answer decision is quashed.
3. The First Respondent's case against the Second Respondent is to be remitted to a differently constituted Panel of the CCC for reconsideration of facts, misconduct, impairment and sanction;
4. The First Respondent is to pay the Appellant's reasonable costs of the appeal, to be assessed if not agreed.
5. The appeal hearing be removed from the Warned List.

WE CONSENT TO AN ORDER IN THE ABOVE TERMS.

Dated this 11th day of August 2016

Capsticks.....

CAPSTICKS SOLICITORS LLP

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Solicitors for the Appellant

[Signature].....

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**NURSING AND MIDWIFERY
COUNCIL**

1ST Floor, 1 Kemble Street
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The First Respondent

By the Court

SCHEDULE 1

1. The Second Respondent is a registered nurse. Between 3 and 6 May 2016, a panel of the First Respondent's CCC considered an allegation that the Second Respondent's fitness to practise was impaired by reason of misconduct. On 5 May 2016, the CCC panel refused the First Respondent's application to have Ms 3's evidence heard via the telephone. On 6 May 2016, the CCC panel refused the First Respondent's application for an adjournment. The CCC panel then considered a no case to answer submission from the Second Respondent's representatives and found no case to answer.
2. The Appellant appealed the decision on the grounds that there was a serious procedural or other irregularity in the proceedings. The Appellant is therefore unable to determine whether the decision of no case to answer is sufficient to protect the public within the meaning of section 29 of the National Health Service Reform and Health Care Professions Act 2002 (as amended). A copy of the Grounds of Appeal is attached to this Schedule as Annex 1.
3. It is conceded by the First Respondent that there has been a serious procedural or other irregularity in the proceedings for the reasons set out in the Grounds of Appeal, with the exception of Ground 4.
4. The Second Respondent does not contest the appeal.

By the Court

Schedule 1 Annex 1

Attachment: Appellant's Grounds of Appeal dated 29 June 2016

By the Court